IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

Crl.MC.No. 857 of 2007()

CRIME NO. 43/07 OF PONKUNNAM POLICE STATION

PETITIONER: COMPLAINANT.

SHAMNA, D/O.FATHIMUTTU,
KETTIDATHIL VEEDU, CHANDANATHOPPU P.O.,
KOLLAM.

BY ADV. SRI.C.RAJENDRAN

RESPONDENTS: ACCUSED & STATE.

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1. STATE OF KERALA REPRESENTED BY THE
CIRCLE INSPECTOR OF POLICE, PONKUNNAM POLICE
STATION THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
KUNDARA, KOLLAM DISTRICT.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 857 of 2007

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Dated this the 18th day of June, 2007

O R D E R

The petitioner is the defacto complainant and her husband, who is not arrayed as a party in this proceeding, is the accused. He is a police constable by profession. The petitioner was residing with her husband at the Police Quarters at Ponkunnam. Unable to stand the cruelty, she allegedly shifted her residence to her parental home at Kollam. There also cruel treatment continued. The petitioner lodged a private complaint before the learned Magistrate and the learned Magistrate referred the complaint to the police under Section 156(3) Cr.P.C. A crime was registered. Investigation was in progress at the Kundara Police Station as Crime No.70 of 2007.

2. The petitioner has come to this Court with a grievance that most unnecessarily and unjustifiably the crime has been transferred to the Ponkunnam police station on the ground that some part of the cause of action - the cruel treatment meted out to the petitioner - has been committed within the jurisdiction of Ponkunnam police station. According to the petitioner this course has been adopted by the police

officials solely with the intention of helping the accused. The petitioner will not be able to get the witnesses and conduct her case properly at Ponkunnam. There was absolutely no necessity to transfer the case, as even admittedly part of the cause of action for the offence had arisen within the jurisdiction of Kundara Police Station.

3. Notice was given. The learned Prosecutor has got a statement of facts filed by the Investigating Officer. In that it is very clearly stated that part of the cause of action had arisen on 5.1.2007 at the parental house of the petitioner at Kollam.

4. It is evident that the transfer was made without any compelling reason and unjustifiably. I find merit in the grievance raised by the petitioner. The learned Prosecutor submits and the statement of facts reveals that investigation is almost complete and final report alleging offence punishable under Sections 498A and 326 I.P.C. is about to be filed. In paragraph 2 of the statement of facts it is clearly revealed as follows:

> "On 5.1.2007 he again assaulted her while she was in her house at Kollam."

5. The learned Prosecutor submits that since the cruel treatment was meted out within the jurisdiction of Kundara and Ponkunnam, there is

nothing wrong in the direction for transfer as the offence under Section 326 I.P.C. was committed at the Police Quarters at Ponkunnam. The crime was registered at Kundara police station on a reference under Section 156(3) Cr.P.C. by the learned Magistrate. I do not find any compelling reason to transfer the case. I am satisfied that the grievance of the petitioner is absolutely justified and relief can and ought to be granted to her in this Crl.M.C.

6. This Crl.M.C. is accordingly allowed. Crime No. 43 of 2007 of Ponkunnam police station shall be transferred back to the Kundara Police station, where expeditious steps shall be taken to complete the investigation and file the final report.

(R. BASANT)
Judge

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